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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,643	09/09/2003	Frank Bachrach	1213.1.001	4720

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EXAMINER

WILLATT, STEPHANIE L

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/658,643

Applicant(s)

BACHRACH ET AL.

Examiner

Stephanie L. Willatt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/9/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: Lines 10-12 of claim 1 recite that the apertures are configured to provide a scraping action against entrapped hairs. However, the apertures are not providing the scraping action, the edges of the comb teeth perform this function. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4-12, 14-16, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Mani (US 1,853,828).

Mani discloses a comb guide that includes first and second movable blade members (comb bodies 9, 10). The first blade member (comb body 9) includes a plurality of first saw teeth/protrusions (15, 15a). The second blade (comb body 10) includes a plurality of second saw teeth/protrusions (15, 15a). There is a means (handles 5, 6) for movably retaining the first and second blade member (comb bodies 9, 10) parallel and adjacent to one another with their respective first and second teeth (15,

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15a) in opposition and parallel planes along their respective longitudinal axes (Figure 3). The blade members (comb bodies 9, 10) can be selectively moved toward one another to cause their teeth to closely overlap with hairs captively held in capture regions formed therebetween (page 1, lines 63-78). The first and second teeth (15, 15a) are *configured* to provide via combing action a scraping action against the entrapped hairs in such a way that lice and nits are removed. The first and second blade members (comb bodies 9, 10) are made from a single piece of material (Figure 2).

The apexes of the first saw teeth (15, 15a) are arranged with opposing apexes of the second saw teeth (15, 15a) in offset planes from one another. The capture regions are diamond shaped, as shown in Figure 2. The movably retaining means further comprises a first elongate element extending away from the first blade member (comb body 9). A second elongate element extends away from the second blade member (comb body 10). The first and second blade members (comb bodies 9, 10) are oriented at an angle of 90 degrees to the first and second elongate elements.

Note: Claims 1, 2, 4, 15 and 20 have been interpreted to invoke 35 U.S.C. 112, sixth paragraph.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mani (US 1,853,828) in view of Avelia (US 3,606,323).

Mani discloses the features discussed above, but does not disclose the material of the blade members. Avelia teaches the use of plastic for making combs. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the blade members of Mani out of plastic, as taught by Avelia, since it plastic is durable and low in cost.

6. Claims 3 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mani (US 1,853,828) in view of Chiavaras et al. (US 5,232,000).

Mani discloses the features discussed above, but does not disclose that the pivot is located at an intermediate point on either of the elongate members. Chiavaras et al. teaches the placement of a pivot at an intermediate point of two elongate members (beams 19, 21). This placement of the pivot allows the user to have better control than the placement of the pivot in Mani. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the invention of Mani with the pivot intermediate the elongate members, as taught by Chiavaras et al., in order to provide the user with better control of opening and closing the blade members.

Note: Claims 3 and 17 do not invoke 35 U.S.C. 112, sixth paragraph because these claims recite that the means has a certain structure.


Conclusion


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Barr, Chiavaras et al. ('997), Kashian, Horvath, and Borow disclose bent scissors. Mattson, Fedtov, and Anderson disclose bent, scissor-shaped clamps. Goldner and Phillips disclose scissors with combs attached to the blades. Johnson discloses intermeshing combs. Saferstein et al. and Thorne disclose combs that are used to remove lice and nits from hair.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie L. Willatt whose telephone number is (571) 272-4721. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


slw


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